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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

STEVENS, ROBERTA A

ART UNIT PAPER NUMBER

2665

DATE MAILED: 03/10/2004

10

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/604,784

Applicant(s)

MAJIDI-AHY, REZA

Examiner

Roberta A Stevens

Art Unit

2665

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,8-11 and 13-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-5,8-11 and 13-15 is/are allowed.
- 6) ☒ Claim(s) 1, 6 and 16-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

*Double Patenting*

1. Claims 1, 6 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 9, 16, 22, 27 and 35 of U.S. Patent No. 6654384 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claim are directed to a method including: determining first values for a plurality of first parameters and at least one second parameter for a communications link, the first parameters being associated with a first layer of an OSI model communications system and the second parameter being associated with a second layer of an OSI model communications system; sending first information using the first value for the communication link; obtaining second information regarding characteristics of the communication link in response to a result of the steps of sending; and adjusting a plurality of the first values in conjunction in response to the second information, whereby further use of the communication link is responsive to the steps of adjusting.

2. U.S. Patent No. 6654384 B1 does not claim the communication link being either an intracell or and intercell communication link. However it would have been obvious to one of ordinary skill in the art to adapt to U.S. Patent No. 6654384 B1 intracell or intercell communication links, as they are well known in the art.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 6, 20, 24 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Raissinia (U.S. 6430193 B1).

5. Regarding claim 1, Raissinia teaches (figures 1-5) a method including: determining first values for a plurality of first parameters (column 5, lines 30-35) and at least one second parameter (column 5, lines 2-6) for a communications link, the first parameters being associated with a first layer (Physical layer) of an OSI model communications system and the second parameter being associated with a second layer (MAC layer) of an OSI model communications system; sending first information using the first value (204, 206, 208) for the communication link, and the communication link being either an intracell or and intercell communication link; obtaining second information regarding characteristics of the communication link in response to a result of the steps of sending; and adjusting a plurality of the first values (power collision rate, error rate) in conjunction in response to the second information (column 7, lines 30-62), whereby further use of the communication link is responsive to the steps of adjusting (columns 5-8).

6. Regarding claim 6, Raissinia teaches (figures 1-5) apparatus including: means for determining first values for a plurality of first parameters (column 5, lines 30-35) and at least one

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second parameter (column 5, lines 2-6) for a communications link, the first parameters being associated with a first layer (Physical layer) of an OSI model communications system and the second parameter being associated with a second layer (MAC layer) of an OSI model communications system; means for sending first information using the first value (204, 206, 208) for the communication link, and the communication link being either an intracell or and intercell communication link; means for obtaining second information regarding characteristics of the communication link in response to a result of the steps of sending; and means for adjusting a plurality of the first values (power collision rate, error rate) in conjunction in response to the second information (column 7, lines 30-62), whereby further use of the communication link is responsive to the steps of adjusting (columns 5-8).

7. Regarding claims 20 and 24 Raissinia teaches (column 7, lines 30-62) the plurality of first values comprises a value of a power selection parameter and of an error code parameter.

8. Regarding claim 34. Raissinia teaches (figures 1-5) a wireless connection between a base station controller and customer premise equipment; and a back haul connection between the base station controller and a non-wireless communication system.

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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10. Claim 16-19, 21-23, and 25-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Raissinia.

11. Regarding claims 16-18 as for sensing co-channel interference, fading, and multipath effects, It would have been obvious to one of ordinary skill in this art to adapt to Raissinia's system these functions as they are well known in the art.

12. Regarding claims 19, 21-23, and 25-33 as for the plurality of first values comprising: antenna selection, channel selection, modulation type, symbol rate, equalization, TDD duty cycle, message retransmission attempts, frequency of acknowledgement messages, symbol transmission rate, number of payload data bits assigned per symbol, number of error detection/correction bits assigned per symbol, number of payload data bytes assigned per message and fraction of the communication link allocated to downstream, it would have been obvious to one of ordinary skill in this art to adapt to Raissinia's system any of these parameters as they are well known in the art.

***Allowable Subject Matter***

13. Claims 3-5, 8-11 and 13-15 are allowed.

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***Conclusion***

14. Any inquiry concerning the communication or earlier communications from the examiner should be directed to Roberta Stevens whose telephone number is (703) 308-6607. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:30 p.m.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor can be reached on (703) 308-6602.

16. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-3900.

17. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:** (703) 872-9306


For informal draft communications, please label "PROPOSED" or "DRAFT"

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA. Sixth Floor (Receptionist).

Roberta A. Stevens

Patent Examiner

03-03-04

  
STEVEN H. D. NGUYEN  
PRIMARY EXAMINER